

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

WELLS FARGO BANK, N.A., *et. al.*,

Plaintiffs,)
v.) CIVIL ACTION NO. 5:10-CV-483 (MTT)
Deborah MITCHELL,)
Defendant.)

)

ORDER

This matter is before the Court on the Defendant's Notice of Removal (Doc. 1).

Pursuant to 28 U.S.C. § 1441(a), an action brought in a State court may be removed to a federal district court embracing the place where the action is pending if the action could have originally been brought in federal court. Here, the Defendant filed her Notice of Removal in the Middle District of Georgia. The state court action was filed in Fulton County State Court and this action—as indicated in the Notice of Removal—should have been filed in the Northern District of Georgia.¹

Further, the Defendant has not established subject matter jurisdiction. Pursuant to 28 U.S.C. § 1447(c), “a district court may remand a case *sua sponte* for lack of subject matter jurisdiction at any time.” *Corporate Mgmt. Advisors, Inc. v. Artjen Complexus, Inc.*, 561 F.3d 1294, 1296 (11th Cir. 2009). Removing defendants bear the burden of proving federal jurisdiction. *Adventure Outdoors, Inc. v. Bloomberg*, 552 F.3d 1290, 1294 (11th Cir. 2008). Doubts regarding the propriety of federal jurisdiction

¹ The Court does not think filing in the wrong district was an accident, as the Northern District of Georgia has barred actions for the relief the Defendant seeks.

should be resolved in favor of remand to state court. *Id.* Here, the Defendant incorrectly attempts to remove a claim for fraudulent foreclosure pursuant to 28 U.S.C. § 1443, the removal statute for equal civil rights claims. Moreover, the Notice of Removal does not allege federal question or diversity of citizenship jurisdiction exists. Because the Defendant has not proven subject matter jurisdiction exists, remand is appropriate.

Accordingly, this matter is **REMANDED** to Fulton County State Court.

SO ORDERED, this the 21st day of December, 2010.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT